

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

U.S. Patent No.: 4,927,855

Issue Date: May 22, 1990

Inventor: Louis Lafon

Title: Levorotatory Isomer of Benzhydrylsulfinyl Derivatives

Mail Stop Hatch-Waxman PTE

Attention: Mary Till

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Request for Interim Extension of Patent Term of U.S. 4,927,855
Under 35 U.S.C. § 156(e)(2) and 37 C.F.R. §1.790(c)

Sir:

Applicant requests that the Director extend the patent term of U.S. 4,927,855 under 35 U.S.C. § 156(e)(2) and 37 C.F.R. § 1.790(c) for a period of 282 days during the processing of the application for patent term extension for this patent, or until May 22, 2009. The current extended expiration date of U.S. 4,927,855 is August 13, 2008. The original expiration date of U.S. 4,927,855 was May 22, 2007.

Applicant requests this interim extension of the patent to May 22, 2009 based on the following:

On May 7, 2007, Cephalon, Inc. filed an application under 35 U.S.C. § 156(d)(5) for an interim extension of US 4,927,855. An interim extension was granted for one year until May 7, 2008.

On June 15, 2007, the FDA approved the NDA for NUVIGIL™. The active ingredient in NUVIGIL™ is armodafinil or 2-[(R)-(diphenylmethyl)sulfinyl]acetamide, which is claimed in U.S. 4,927,855.

On July 26, 2007, Cephalon filed an application under 35 U.S.C. § 156 for an extension of the term of U.S. 4,927,855. This application for patent term extension requested 1066 days of patent term extension as measured from the original expiration date.

On August 13, 2007, the USPTO issued an order granting an interim extension of U.S. 4,927,855 under 35 U.S.C. § 156(c)(2) until August 13, 2008. This interim extension was granted because the extended term of the patent would have terminated 60 days (August 13, 2007) after the date of FDA approval of the NDA.

As of today's date, FDA continues to review the application and the processing of the application may extend beyond the extended expiration date of the patent of August 13, 2008.

Respectfully submitted,

Date: July 1, 2008

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